IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 6325 of 2005

Between:

M. Bhasker, S/o. Narsimha, E.No. 255142, R/o. 1-1-496/A, Nehrunagar, Suryapet, Nalgonda District.

..... PETITIONER

AND

1 The Divisional Manager, APSRTC, Suryapet Division, Surypet, Nalgonda District.
2 The Depot Manager, APSRTC, Bus Depot, Surypet, Nalgonda District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ or direction particularly one in the nature of WRIT OF MANDAMUS declaring the impugned order of punishment in withholding annual increment for a period of (2) years which shall have effect of postponing on the petitioner's future increment vide proc. No. 02/62/DS(37)/90-SRPT dated 31-8-1990 as confirmed by the 1st respondent vide proceeding No. PA.19(9)/05-DVM:SPRT dated 21-2-2005 as illegal, unjust in violation of Art, 14,16 & 21 of the constitution of India and also in violation of Reg. 12(2) of APSRTC, CC&A Reg. 1967 and consequently direct the 2nd respondent to restore the withhold increment along with all consequential benefits in the interest of justice and fair play.

Counsel for the Petitioner : MR.V.NARASIMHA GOUD

Counsel for the Respondents: MR.V.T.M.PRASAD (S.C.FOR APSRTC)

The Court made the following :

O R D E R:

This Writ Petition is filed by the petitioner aggrieved by the order passed by the 2nd respondent-Depot Manager, imposing a major punishment without conducting any regular departmental enquiry.

2. According to the petitioner, he was appointed as conductor and while so, he was charge sheeted on 16.7.1990 for certain alleged irregularities. The petitioner submitted his explanation to the said charge memo. The 2nd respondent, if not satisfied with the said explanation, ought to have conducted a regular domestic enquiry. But, however, without conducting any regular domestic enquiry, imposed a major punishment of withholding of annual increment for a period of two years, which shall have the affect of postponing the petitioner's increment in future also. Against the said order, the petitioner filed an appeal, but the same was dismissed observing that it is time barred. Hence, the petitioner has come up with the present Writ Petition.

3. The learned counsel for the petitioner contended that the impugned order, on the face of it, is liable to be set aside, in view of the orders of this Court as well as the Judgments of the Supreme Court, as no major penalty can be imposed without conducting a regular departmental enquiry. But, however, with reference to the delay and laches on the part of the petitioner, the learned counsel sought to contend that as the impugned order is *ex facie* unsustainable, the punishment may be modified so as to reduce the severity of the punishment imposed, from the one of major penalty to the one of minor penalty.

4 . The learned Counsel for the Respondents, on the other hand, opposed the contentions of the petitioner and sought to contend that the Writ Petition is filed after a long time and therefore, the same may be dismissed.

5. Heard both sides and considered the material on record.

6. Prima facie, the impugned order passed by the 2nd respondent imposing a major penalty of withholding annual increment for a period of two years with cumulative effective without conducting regular departmental enquiry is illegal and unsustainable in the light of the Judgments of the Supreme Court as well as this Court. But, however, in view of the mere laches on the part of the petitioner, it would

not be proper to sustain such illegal order, though it was contended on behalf of the Corporation that the petitioner has approached this Court with an abnormal delay.

7. Under the above circumstances, this Court is of the opinion that it would be proper and just to modify the major punishment imposed by the 2nd respondent withholding annual increment for a period of two years with cumulative effect to that of 'without cumulative effect'. However, the petitioner shall not be entitled to any monetary benefit prior to the date of the order of this Court. The benefit of deletion of cumulative effect would be only in the future increments i.e., from the date of order of this Court.

8. The Writ Petition is accordingly disposed of, modifying the impugned order to the extent indicated above. No costs.

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S. Ananda Reddy, J.

Dt. 30..06..2005

Kvh

To

1 Divisional Manager, APSRTC, Suryapet Division, Surypet, Nalgonda District.
2 The Depot Manager, APSRTC, Bus Depot, Surypet, Nalgonda District.

3. Two CD copies

4 . One CC to MR.NARASIMHA GOUD